

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	<b>No. CR 01-00078 DAE</b>
	)	
Plaintiff,	)	<b>MOTION TO VACATE HEARING</b>
	)	
vs.	)	
	)	
GARY W. RODRIGUES, et. al.,	)	
	)	
Defendants.	)	
_____	)	

Defendant Gary W. Rodrigues through counsel, Doron Weinberg, respectfully moves the Court for its Order vacating the hearing to set the mittimus date previously scheduled for September 7, 2007.

Defendant makes this request because the mandate of the Ninth Circuit has not issued on his appeal in action number 03-10549, or in the appeal of co-defendant Robin Sabatini, action number 04-10027.

Following the denial of defendant's Petition for Rehearing in the Ninth Circuit on or about August 21, 2007, defendant filed a timely motion for stay of mandate pending filing a petition for writ of certiorari on August 27, 2007. Co-defendant Robin H.R. Sabatini filed her motion for stay of mandate on August 24, 2007.

As of 12:00 pacific daylight time, both motions were pending in the Ninth Circuit, and mandate has not issued in either appeal.

Accordingly, defendant respectfully submits that the hearing to set the mittimus date

should be vacated and further action by this Court should wait the issuance of the Ninth Circuit's mandate.

Dated: August 31, 2007

/s/ Doron Weinberg  
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